

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

RANDALL MAYS,

Plaintiff,

v.

CIVIL ACTION NO. 3:24-0445

ADMINISTRATIVE ALDRIDGE, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Findings of Fact and recommended that the Court grant Defendants' Motion to Dismiss (ECF No. 27-1), deny without prejudice Defendants' alternative Motion for Summary Judgment (ECF No. 27-2), and dismiss this civil action under Rules 12(b)(1) and 12(h)(3) of the Federal Rules of Civil Procedure based upon a lack of subject matter jurisdiction or, alternatively, under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. No objections to the Magistrate Judge's findings and recommendation have been filed.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and, consistent with the findings and recommendation, **GRANTS** Defendants' Motion to Dismiss (ECF No. 27-1), **DENIES without prejudice** Defendants' alternative Motion for Summary Judgment (ECF No. 27-2), and **DISMISSES** this civil action under Rules 12(b)(1) and 12(h)(3) of the Federal Rules of Civil Procedure based upon a lack of

subject matter jurisdiction or, alternatively, under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: March 5, 2025

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE